

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANTHONY SHEPHERD,

Petitioner,

Case Number: 2:12-CV-10246

v.

HONORABLE PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

MITCH PERRY,

Respondent.

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**ORDER DENYING PETITIONER'S APPLICATION  
TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

Petitioner Anthony Shepherd filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254. The Court denied the petition on June 5, 2014, declined to issue a certificate of appealability, and denied leave to appeal *in forma pauperis*. Petitioner has now filed an application to proceed *in forma pauperis* on appeal. Because the Court already has denied leave to proceed *in forma pauperis* on appeal, the Court construes Petitioner's motion as requesting reconsideration of that denial.

Motions for reconsideration may be granted when the moving party shows (1) a "palpable defect," (2) by which the court and the parties were misled, and (3) the correction of which will result in a different disposition of the case. E.D. Mich. L.R. 7.1(h)(3). A "palpable defect" is a "defect which is obvious, clear, unmistakable, manifest or plain." *Olson v. The Home Depot*, 321 F. Supp. 2d 872, 874 (E.D. Mich. 2004). An appeal may not be taken *in forma pauperis* if the court determines that it is not

taken in good faith. 28 U.S.C. § 1915(a)(3). The Court denied leave to appeal *in forma pauperis* because any appeal would be frivolous. Petitioner fails to demonstrate that the Court's decision was based upon a palpable defect by which the Court was misled.

Accordingly, the Court DENIES Petitioner's Application to Proceed *In Forma Pauperis* on Appeal [dkt. # 36].

SO ORDERED.

s/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: July 11, 2014

#### CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 11, 2014.

s/Deborah Tofil  
Case Manager